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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,221	10/12/2001	Ulrich Zimmermann	414P037Div.	9837

7590

05/29/2003

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EXAMINER

LOVERING, RICHARD D

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 05/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,221

Applicant(s)

ZIMMERMANN

Examiner

LOVERING

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on OCT. 12, 2001; FEB. 13 & JAN. 30, 2002.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 7-15 AND 17-25 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 7-15 AND 17-25 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 7 and 8, drawn to a gel precursor composition, classified in Class 252, subclass 183.13.

deleted
with II. Claims 9-15 and 22-25, drawn to a method of cross-linking ionotropic gels, *copied* classified in Class 516, subclass 105.

III. Claim 17, drawn to a method for treating a wound, classified in Class 602 or 424, subclass 42 or 78.06, resp.

IV. Claim 18, drawn to a method for filling a cavity in a tooth, classified in Class 433, subclass 226.

V. Claim 19, drawn to transplant encapsulation, classified in Class 435, subclass 226.

VI. Claim 20, drawn to food encapsulation, classified in Class 426, subclass 89+.

VII. Claim 21, drawn to cosmetic encapsulation, classified in Class 424, subclass 401+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II on the one hand and III-VII on the other are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different

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process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process such as that for making Alka-Seltzer[®].

Inventions III-VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions as claimed can be used as a bandage, a dentifrice, a transplant, a food and a cosmetic.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. Kevin S. Lemack on May 12, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lovering whose telephone number is (703) 308-0443. The examiner can normally be reached on Mon.-Fri. from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 872-9310.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

R. Lovering:cdc
May 28, 2003

Richard D. Lovering
RICHARD D. LOVERING
PRIMARY EXAMINER
GROUP ~~1000~~ 1700